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Boulders Homeowners Association

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Keith A. Layton
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Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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AZ CORP COMMISSION
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June 19, 2006

Subject: **Docket No. SW-02361^A-05-0657: In the matter of the application of Black Mountain Sewer Corporation, for a determination of the fair value of its utility plant and property and for increases in its rates and charges for utility service based thereon.**

Dear Mr. Layton,

This provides the response from the Boulders Homeowners Association to your letter to the Commissioners on "Staff's Alternative Recommendation for use of funds in the Hook-up Fee Account," which was dated and received by the Arizona Corporation Commission on June 15, 2006.

1. The Boulders Homeowners Association (BHOA) did not become aware of Staff's Alternative Recommendation until receiving the communication described above on Thursday, June 15th. Our becoming aware of your Alternative Recommendation was thus after the cross-examination period on June 9th of Mr. Scott and representatives of Black Mountain Sewer.
2. Now that the BHOA has become aware of the Alternative Recommendation we believe that it has substantial merit, and that it serves as an excellent starting point to come to an equitable resolution of the matters pertaining to this subject before the Commission.

Below are listed the points which preclude the BHOA from accepting Staff's Alternative Recommendation as the complete remedy to the request of Black Mountain Sewer Corporation:

1. Based upon what BHOA homeowners have personally experienced and our discussions with other homeowners in Carefree and Scottsdale, we agree with Staff's summary that the two primary problem areas with the Black Mountain Sewer system in Carefree of which we are aware are the CIE Lift Station and the pipe that runs from the Boulders manhole located near the junction of Stagecoach Pass and Boulder Drive to the Black Mountain wastewater treatment plant located within the Boulders on Boulder Drive. We would expand the definition of the problem in the Boulders however, and add that numerous streets within the Boulders intersect Boulder Drive, particularly including Quartz Valley Drive, from which the sewer pipes servicing the houses on those streets directly connect to the main sewer line just mentioned.

These homeowners on intersecting streets have also been subjected to frequent sewerage overflow and odor escaping from manhole covers problems as well as those homeowners residing on Boulder Drive. The problem is larger than Boulder Drive alone.

2. While one or more people with significant and relevant credentials testified before the Commission on June 7th and presented alternative solutions to address the problems being encountered, the BHOA does not have the expertise necessary to recommend the specific solution(s) which will correct the problem being encountered with the Black Mountain Sewer system within the Boulders and prevent them from occurring again. We believe that the solution(s) to this problem should be determined and implemented by Black Mountain Sewer after their engineers and outside consultants study the problem and evaluate various options to solve it/them.
3. We do not know the exact monetary figure which would be required to address and remedy the two primary problem areas with the Black Mountain Sewer system, but it is possible, and perhaps likely, that the repairs in the two primary areas noted by Staff (the CIE Lift Station and the expanded definition of the problem within the Boulders) may exceed the approximately \$800,000 in the Hook-up Fee Account. Mr. Dodds from Black Mountain Sewer estimated that repairs to the CIE Lift Station alone could cost in the \$200,000 to \$500,000 range, and what specific repairs/modifications to the system should be made within the Boulders have not been determined at this time, nor, obviously, have their costs been determined either.

Below are listed the primary aspects which build upon Staff's Alternative Recommendation and which the BHOA would consider necessary to make this Alternative Recommendation viable:

1. Use the approximately \$800,000 of funds in the Hook-up Fee Account as the first pool of funds to address and remedy the two primary problem areas within the Black Mountain Sewer system within Carefree. The definition of the problem area within the Boulders, however, must be expanded to include the adjacent streets problem which we believe is directly related to "the pipe that runs from the Boulders manhole to the Company's wastewater treatment plant" problem.
2. Since it is possible that the solutions to the two primary problem areas might exceed the approximately \$800,000 in the Hook-up Fee Account, should the Commission grant Black Mountain Sewer Corporation a rate increase, any funds derived by Black Mountain Sewer from this rate increase must be deposited in full into a separate Escrow Account. The funds within this Escrow Account would only be released to Black Mountain Sewer Corporation through the Company meeting either of the following criteria:

- i. The funds would be used for bona-fide repairs/upgrades to the system to address and solve the two primary problem areas discussed in the preceding, or
- ii. When the two primary problem areas within the system are resolved to the satisfaction of the appropriate Officials from the Town of Carefree, and, in the case of the problem area (using the expanded definition) located within the Boulders, by the additional concurrence of the BHOA.

The performance of the Black Mountain Sewer Corporation in remedying these two primary problem areas must be re-addressed at intervals not longer than every six months, and, should one or both of the problem(s) re-occur and the appropriate Officials from the Town of Carefree and, as appropriate, the BHOA, withhold their approval for the release of funds from the Escrow Account to Black Mountain Sewer Corporation, those additional funds from a rate increase granted to Black Mountain Sewer by virtue of this specific rate increase request would thereafter continue to be deposited into the separate Escrow Account and withheld from Black Mountain Sewer Corporation until the problem was satisfactorily resolved and the required approvals re-obtained.

3. Should Black Mountain Sewer Corporation show the indifference to the acceptable operation of their sewerage and wastewater treatment operating system in Carefree that they have in the past, the Officials from the Town of Carefree and the BHOA be granted an expedited right to petition the Arizona Corporation Commission for a hearing to require Black Mountain Sewer Corporation to hire a separate and experienced Management firm to assume full operating control of the Company. Should the Commissioners receive such a petition from either the Town of Carefree and/or the BHOA, they will grant such a petition a ready forum for the petitioners to be heard and to present their evidence.
4. The BHOA believes that the procedures and inspections by the Arizona Department of Environmental Quality (ADEQ) have been inadequate to identify the problems that homeowners within Carefree and Scottsdale have been experiencing from the malfunctioning and antiquated operation of the Black Mountain Sewer system. Worse yet, ADEQ approvals, coming after pre-announced visitations with the component(s) of the system that they will inspect being identified in advance, have led to inaccurate information regarding the overall condition and operation of the Black Mountain Sewer system and permitted the misconception to be publicized by Black Mountain Sewer Corporation that their system is operating within all of the appropriate State of Arizona requirements. Clearly, the letters which the Commissioners have been and are receiving from irate homeowners from Carefree and Scottsdale about continuing and recent operating problems from this system dispel any misconceptions that this system is operating properly.

The BHOA specifically requests that, in addition to the current/required number of pre-announced annual visits by ADEQ, that ADEQ be required by the Commission to make at least one unannounced visit quarterly, specifically including thoroughly evaluating the operation of the two primary problem areas discussed previously, and that ADEQ communicate in advance of such unannounced visits with Officials from the Town of Carefree and the BHOA to learn about problems that have been brought to the attention of these two groups by homeowners on the system.

5. We understand that the Black Mountain Sewer Corporation's wastewater treatment facility located within the Boulders which services most of Carefree is operating at or near capacity. Town Officials from Carefree also state that Carefree is only approximately 50% built-out at this time, and that they anticipate significant growth to continue within the town.

Given these two points, and the obvious implications of the further strains on the sewerage and wastewater treatment system for Carefree, we request that the Arizona Corporation Commission require as a part of this settlement that within a reasonable time period that the Town of Carefree, Black Mountain Sewer Corporation and other interested parties including the BHOA to develop an adequate and appropriate long-term plan fully addressing how the Town of Carefree will handle this additional sewerage and wastewater capacity requirement given the already severely taxed sewerage and wastewater system in Carefree.

Respectfully submitted this 19th day of June, 2006.

Bob Williams
Les Peterson

For the Boulders Homeowners Association

CC: Administrative Law Judge Dwight Nodes (ALJ Nodes)
Arizona Corporation Commissioners
Jeff Hatch-Miller, Chairman
William A Mundell
Mark Spitzer
Mike Gleason
Kristen K Mayes